

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

DIANDRA HECK,)	
)	Case No. 3:21-cv-158
<i>Plaintiff,</i>)	
)	Judge Travis R. McDonough
v.)	
)	Magistrate Judge Debra C. Poplin
THE COPPER CELLAR CORPORATION)	
)	
<i>Defendant.</i>)	

ORDER

Before the Court is Plaintiff’s motion to voluntarily dismiss this action without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) (Doc. 19). Plaintiff filed this action on March 5, 2021, in the Chancery Court of Knox County, Tennessee, and Defendant removed to this Court on April 28, 2021. (*See* Doc. 1). Defendant filed its answer to the complaint (Doc. 17), and the parties have completed discovery. (*See* Doc. 14, at 2 (close of discovery was October 18, 2021).)

If a defendant has filed an answer to the complaint and will not agree to the dismissal, a plaintiff may only obtain voluntary dismissal “by court order, on terms that the court considers proper.” Fed. R. Civ. P. 41(a)(2). “[T]he purpose of Rule 41(a)(2) is to protect the nonmovant, here the defendants, from unfair treatment.” *Bridgeport Mus., Inc. v. Universal-MCA Mus. Pub., Inc.*, 583 F.3d 948, 953 (6th Cir. 2009) (citing *Grover by Grover v. Eli Lilly & Co.*, 33 F.3d 716, 718 (6th Cir. 1994)). The Court should not grant a motion to voluntarily dismiss if the defendant would suffer “plain legal prejudice” as a result of a dismissal without prejudice. *Id.*

In determining whether such prejudice would result, courts typically consider “the defendant’s effort and expense of preparation for trial, excessive delay and lack of

diligence on the part of the plaintiff in prosecuting the action, insufficient explanation for the need to take a dismissal, and whether a motion for summary judgment has been filed by the defendant.”

Id. (quoting *Grover*, 33 F.3d at 718).

Defendant does not oppose Plaintiff’s motion to dismiss without prejudice. (Doc. 20.)

Given Defendant’s non-opposition and the lack of perceivable prejudice to Defendant, the Court

GRANTS Plaintiff’s motion to voluntarily dismiss (Doc. 19) and will **DISMISS** this action

WITHOUT PREJUDICE.

AN APPROPRIATE JUDGMENT WILL ENTER.

/s/ Travis R. McDonough

TRAVIS R. MCDONOUGH
UNITED STATES DISTRICT JUDGE